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Authors: Garofalo and others

Subject: Income and corporate franchise tax; allowance of trade or business expense deductions for manufacturers of medical marijuana

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This bill allows companies manufacturing medical marijuana under Minnesota licenses to subtract their trade or business expenses (e.g., rent, employee wages, utilities, and so forth) in computing taxable income used in calculating Minnesota individual income tax and corporate franchise taxes. Section 1 is the individual income tax subtraction and section 2 is the corporate franchise subtraction.

The amendment allows the subtraction under the individual income and corporate franchise alternative minimum taxes.

Effective date: tax year 2018

Background: Federal law (section 280E of the Internal Revenue Code), which Minnesota law incorporates by reference, disallows deductions for amounts “paid or incurred ... in carrying on any trade or business [that] consists of trafficking in [Schedule I or II] controlled substances” as defined by federal law. Since marijuana is a Schedule I controlled substance, this provision prevents medical marijuana businesses from deducting their business expenses, such as rent, wages paid to employees, and so forth. Under guidance provided by the Internal Revenue Services (following the legislative history of section 280E), this does not prohibit deductions for the cost of goods sold. This bill would allow companies that are licensed by the state of Minnesota to produce medical marijuana to subtract the expenses disallowed under section 280E in computing Minnesota income or corporate tax.